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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,269	12/28/2001	Axel Schumacher	R.35853	4016

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EXAMINER

SY, MARIANO ONG

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/019,269

Applicant(s)

SCHUMACHER, AXEL

Examiner

Mariano Sy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, the phrase "in particular an electromechanical wheel brake assembly" in lines 1-2 renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 8 recites the limitation "the tightening direction" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "a quasi-static terminal braking state" in line 3. It is indefinite and unclear what applicant is referring to.

Claim 8 recites the limitation "the release direction" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the phrase "if at all, only imperceptibly" in line 7. It is indefinite and unclear what applicant is referring to.

Regarding independent claim 9 and all claims dependent to claim 9, no search and prior arts have been applied because the claim language is so unclear, vague, and indefinite.

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Claim 9 recites the limitation "a quasi-steady state" in lines 2-3. It is indefinite and unclear what applicant is referring to.

Claim 9 recites the phrase "if at all, only imperceptibly" in line 6. It is indefinite and unclear what applicant is referring to.

Claim 11 recites "repeating steps (b) and (c) in line 1. There is no step (c) in claim 9 wherein claim 11 is dependent on.

Claim 13 recites "repeating steps (b) and (c) in line 1. There is no step (c) in claim 9 wherein claims 11 and 13 are dependent on.

Claim 15 recites "repeating steps (b) and (c) in line 1. There is no step (c) in claim 9 wherein claims 11 and 15 are dependent on.

Claim 17 recites "repeating steps (b) and (c) in line 1. There is no step (c) in claim 9 wherein claims 11 and 17 are dependent on.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8, 10, 12, 14, 16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schenk et al. (U.S. Patent Number 5,090,518).

Re-claims 8, 10, 12, 14, 16, and 18 Schenk et al. discloses a method for actuating a wheel brake assembly, comprising the steps of (a) initially actuating the

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brake assembly in the tightening direction, then (b) actuating the wheel brake assembly for a brief period of time in the release direction, and then (c) again actuating the brake assembly in the tightening direction, said brief period of time of the actuation in the release direction being selected to be so short that the braking force is reduced; repeating steps (b) and (c); wherein steps (b) and (c) are repeated after a predetermined period of time after the onset of the re-tightening; wherein steps (b) and (c) are repeated when the wheel brake assembly comes to a stop upon re-tightening; and wherein said brief period of time during which the system is actuated in the release direction is defined by a travel distance by which an actuating element is moved in the release direction. This method appears to read on the well-known anti-lock brake system of Schenk et al. wherein the brakes are actuated and released intermittently and repeatedly in a brief period of time so that the wheel does not slip or lock on different road surface conditions, see col. 2, lines 56-68 and col. 3, lines 1-20.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tribe (U.S. Patent Number 4,399,894) discloses a push rod slack adjuster.

Shaw et al. (U.S. Patent Number 5,219,048) discloses an electric disc brake.

Takahashi et al. (U.S. Patent Number 5,348,123) discloses a brake actuating apparatus.

Zhang (U.S. Patent Number 5,454,630) discloses an automobile antilock braking.

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Kingston et al. (U.S. Patent Number 5,931,268) discloses an electrical actuation mechanism for disc brake assembly.

Rinsma (U.S. Patent Number 6,311,807 B1) discloses a brake caliper with wear compensation.

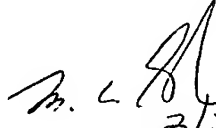
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 703-308-3427. The examiner can normally be reached on Mon.-Fri. from 9:00 A.M. to 3:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

 M. Sy

February 10, 2003

  
2/20/2003  
MATTHEW C. GRAHAM  
PRIMARY EXAMINER  
GROUP 310